

EXHIBIT 34



OFFICE OF THE CITY CLERK CITY RECORDS MANAGEMENT

CRMP Advice Sheet

Text Messages

With more work being done remotely, dependence on text messaging as a communication method has increased. This advice sheet, produced by the City Records Management Program (CRMP), is intended to provide City employees with the basic understanding regarding their responsibilities for retention and public disclosure when using text messaging for City business.

Basic Text Message policies

- Text messages about the work of the agency are public records.
- Texting on personally owned devices about the work of the agency are still public records.

An employee should limit texting regarding City business to transitory texts that can be deleted once the message serves its purpose. In the event communications that are more than transitory are necessary, such communications should occur in person, by telephone, by email, or by memorandum, but not by text. Using this approach will avoid complications with retention and producing texts for the purposes of responding to public records requests.

What is the retention policy for text messages?

The retention period for public records depends on the function and content of the record, not its format or method of transmission. How long text messages need to be kept depends on the information transmitted within the text. Having just one blanket retention period for text messages is akin to having a single retention period for all letter-sized paper – the format does not determine the retention.

The questions to ask to determine the need to retain a text message are:

1. What is the message about? (content)
2. Why was it sent and for what purpose? (function)

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What is a transitory text message?

“Transitory” text means a text message that only documents information of temporary, short-term value, and that is not needed as evidence of a business transaction. Examples of transitory texts include:

- Texts that set work meetings or request job-related phone calls.
- Texts that are akin to voice mail messages.
- Texts noting the sender has completed a simple task (e.g. “I returned the call to Mary Smith,” “The broken water main has been repaired,” or “The suspect has been apprehended.”)
- Texts informing a coworker/supervisor that the sender will be late to work, late to a meeting, is taking the day off, or another similar message.
- Texts that ask another employee to take some form of simple action (e.g. “Can you please take your City vehicle to the shops,” “I need you to call Frank about the sewer line on 256th,” or “You are needed in court at 11:00 a.m.”)
- Texts that contain information that is later included in another City record. Examples include:

- A Street Supervisor receives a text from a coworker informing him of a fallen tree on 256th Street. The Supervisor later prepares a work report noting the fallen tree on 256th, and that he sent a crew to clean up the tree. Once the work report is prepared, the text becomes transitory.
- A Police Detective receives a text from a Sergeant explaining that she talked with a witness in an investigation and asking the Detective to follow up and take a statement from the witness. The Detective then takes a statement from the witness. Once the statement is taken, the text becomes transitory

Transitory texts may be deleted by the user once the texts have served their purpose.

Doesn't the City ITD retain all the text messages sent via a City issued device?

City IT does not have the ability to retain text messages from all City issued phones*. In the event several text messages on your City device need to be retained or reviewed/provided for public disclosure or pursuant to a litigation hold, you should work with your Public Disclosure Officer and/or the paralegal for a matter on which you are on litigation hold for solutions.

- CRMP recommends: Use your Outlook Web Access or Teams Chat to communicate and capture important case related information, not a texting application.

* A pilot program for an application that will allow for City IT managed preservation and retrieval of text messages for a group of individual City issued phone users is currently in progress. The individuals involved in this pilot program have been/will be notified prior to having their phones enrolled in this application. If you have not been notified, please observe and abide by the guidance provided above.

But doesn't the phone company have all the text messages

Phone companies keep a log of a call, text, or other transaction; BUT they do not keep the details of your text messages. Phone companies are not subject to state recordkeeping laws, so it is up to the you to ensure that messages are being retained appropriately

What if I use my City device and conduct personal business?

Using a City device for personal business means that your personal business can be requested under the public disclosure laws and may be released unless it meets specific criteria. Never assume that those text messages are exempt just because they are personal in nature. If the text messages are on a City device, they are still deemed as public records.

If I'm using a personal device how can I retain substantive communication?

We do not recommend using a personal device for City business, but if you have no other options, below are three possible solutions to retain substantive text messages:

1. Forward text messages that are substantive communication to your City email account.
2. Create a follow up email that documents your text message conversation.
3. Use the Teams Chat feature or post final decisions in a Teams site.

If text messages from your personal device are requested for public disclosure, you should work with your Public Disclosure Officer for potential technological solutions to obtain several text messages from a device.